

cause of much perplexity; and that not merely in this Court; for, by means of this Act of Assembly cases involving and resting upon a mere question of equity may thus consequentially be brought within the jurisdiction of a Court of common law. *Scott v. Scholey*, 8 East, 467; *Archer v. Snapp*, Andrews, 341; *Hopkins v. Stump*, 2 H. & J. 301; *Harding v. Stevenson*, 6 H. & J. 264.

It will be seen from what has been said, that the lien of a judgment at common law arises altogether from the liability of the freehold to be taken in execution and extended or sold for the satisfaction of such judgment. According to the English law, although a decree is equal to a judgment in the administration of the personal assets; yet it gives no such lien upon the realty as that arising from a judgment; because a decree acts only *in personam* not *in rem*; and the remedy upon a decree to affect land is only for a contempt, whereupon the party proceeds to sequestration, which is a mere personal process. *Powel Mortg.* 547; *Ram. on Assets*, 292. But a writ of sequestration binds from the very time of awarding it, and not only from the time of its being laid or of its delivery to the sheriff; and in that respect it gives a lien earlier than a *fiery facias*. *Burdett v. Rockley*, 1 Vern. 58; *Bligh v. Darnley*, 2 P. Will. 621; *Forum Rom.* 87. But where lands or the profits of lands, which is all one, are directly in demand, as where the lands or their profits were charged with the payment of a legacy to the plaintiff, the title is bound from the time of filing the bill, and every purchaser *pendente lite* comes in at his peril. *Crofts v. Oldfield*, 3 Swan. 278, note.

The Act of Assembly prescribes the order in which the debts of a deceased debtor shall be paid out of his real as well as out of his personal assets, giving a preference to judgments, and thus recognizing the lien to which they give rise; but it is silent as to decrees. 1785, ch. 80, s. 7. The Testamentary System puts judgments and decrees upon the same footing in the administration of the personal estate; but does not intimate, that a decree gives rise to any lien upon the realty like that attendant upon a judgment at law. 1798, ch. 101, sub-ch. 8, s. 17. There is *then no direct legislative enactment upon the subject; and no **321** case is recollected in which the point has been decided by the Court of Appeals.

But it has been declared by an Act of Assembly, that "it shall and may be lawful for the Chancellor to issue attachment of contempt, attachment with proclamations, and also sequestration against the defendant, until the decree shall be fully performed, fulfilled and executed, and the contempts cleared, or to order process of sequestration to issue to compel a performance of the said decree, by an immediate sequestration of the real and personal estate and effects of the defendant, or such part thereof as may be sufficient to satisfy the demand of the plaintiff in the decree speci-